

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

LOUIS ANTONIO RIVERA,	)	CASE NO. ED CV 08-01194 JVS (RZ)
	)	
Petitioner,	)	
	)	ORDER TO SHOW CAUSE
vs.	)	
	)	
KEN CLARK, WARDEN, et al.,	)	
	)	
Respondents.	)	

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The Court issues this Order To Show Cause directed to Plaintiff because the face of the petition suggests that the action may be time-barred.

In 1996, Congress enacted the Antiterrorism and Effective Death Penalty Act (“AEDPA”), a portion of which established a one-year statute of limitations for bringing a habeas corpus petition in federal court. 28 U.S.C. § 2244(d). In most cases, the limitations period commences on the date a petitioner’s conviction became final. *See* 28 U.S.C. § 2244(d)(1). The limitations period will start instead on one of the following dates, whichever is latest, if any of them falls after the petitioner’s conviction becomes final: the date on which a State-created impediment – itself a violation of Constitutional law – was removed; the date on which a newly-recognized Constitutional right was established; or the date on which the factual predicate for the claims could have been discovered through the exercise of due diligence. 28 U.S.C. § 2244(d)(1).



1 equitable tolling appears from the face of the petition. *See Pace v. DiGuglielmo*, 544 U.S.  
2 408, 418, 125 S. Ct. 1807, 161 L. Ed. 2d 669 (2005) (equitable tolling of AEDPA statute  
3 requires petitioner to show “(1) that he has been pursuing his rights diligently, and (2) that  
4 some extraordinary circumstance stood in his way”), *quoted in Harris, supra*, 515 F.3d at  
5 1054-55.

6 This Court may raise *sua sponte* the question of the statute of limitations bar,  
7 so long as it gives Petitioner an opportunity to be heard on the matter. *Herbst v. Cook*, 260  
8 F.3d 1039 (9th Cir. 2001). Accordingly, Petitioner shall show cause why this action should  
9 not be dismissed as being barred by the one-year statute of limitations. Petitioner shall file  
10 his response to the Court’s Order to Show Cause not later than 21 days from the filing date  
11 of this Order.

12 If Petitioner does not file a response within the time allowed, the action may  
13 be dismissed for failure to timely file, and for failure to prosecute.

14 IT IS SO ORDERED.

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16 DATED: September 15, 2008

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20 RALPH ZAREFSKY  
21 UNITED STATES MAGISTRATE JUDGE  
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